



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

COPY MAILED
MAR 04 2008

In re Application of :
Sodder et al. :
Application No. 10/621,849 : **DECISION ON PETITION**
Filed: July 16, 2003 :
Attorney Docket No. ENB-001 :

This is a decision on the petition, filed January 8, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed May 29, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 6, 2007.

Petitioner asserts that the Office action dated May 29, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2616 for re-mailing the Office action of May 29, 2007. The period for reply will run from the mailing date of the Office action.

A handwritten signature in cursive script, appearing to read "Charlema Grant".

Charlema Grant
Petitions Attorney
Office of Petitions